

EXHIBIT E

From: Howard, Geoff
Sent: Wednesday, July 08, 2009 1:32 PM
To: Greg Lanier; Scott Cowan; Jason McDonell; Joshua Fuchs; ewallace@JonesDay.com; Jane L Froyd
Cc: House, Holly; Pickett, Donn; Alinder, Zachary J.; Hann, Bree; Russell, Chad; Polito, John A.; Jindal, Nitin
Subject: Fourth Amended Complaint
Attachments: Fourth Amended Complaint -- For Meet and Confer (3).DOC; Redline Fourth Amended Complaint -- For Meet and Confer.doc

Counsel,

Attached is a draft Fourth Amended Complaint for your review. Although we have not yet obtained all of the necessary copyright registrations, we are providing the complaint to you now in the interest of concluding our meet and confer on various issues.

The first attached version of Fourth Amended Complaint is a "clean copy" that includes amendments for issues as to which the parties have stipulated (in blue - Siebel, post-litigation) as well as amendments for disputed issues (in red - PeopleSoft and Database registrations). The second attachment is a redline showing all changes. Although the Court's June 11, 2009 order sets the deadline for disputed amendments at August 26, 2009, if the parties cannot reach agreement on these additional allegations, we intend to file motions to allow all of these amendments by the Siebel-related deadline of July 15, to avoid additional burden on the Court (and subject to having received the necessary registrations). Per the Court's request, and if the parties cannot reach agreement, we will file a separate motion directed at the contested amendments. We understand the hearing date on that motion to be August 19th.

We would appreciate your prompt response on the issues below so that we may finalize our motion papers as appropriate. We are of course available to discuss any or all of these issues.

1. Stipulated issues - We assume these amendments are acceptable to Defendants and you will not oppose a motion to add them. Please confirm.
2. Disputed amendments related to additional legacy PeopleSoft registrations - Though Oracle believes it is entitled to add the entire list of sixty-three registrations discussed in earlier meet and confer correspondence, and perhaps others, as a compromise we now seek to add just twenty, focused principally on the HRMS product lines and including a few others. As already discussed, we believe these amendments are justified for at least two reasons - 1) in response to Defendants' recent motion to compel, in which Defendants indicated they would seek to exclude from the case infringement of pre-existing registrations, and 2) based on analysis of Defendants voluminous and complex recent and ongoing productions and amended discovery responses. Though Defendants have already indicated they would not consider the addition of the sixty-three or any smaller subset, we urge Defendants to reconsider as to these twenty, which is obviously a significant concession by Oracle. We do not think the Court will be interested in hearing and deciding an opposed motion on these conforming amendments. Finally, we offer this proposal as a compromise. If Defendants will not agree as to these twenty, Oracle reserves the right to move for amendment with respect to any or all of the sixty-three registrations identified earlier or any others which Oracle deems appropriate.
3. Disputed amendments related to new PeopleSoft and JDE registrations - We seek to add one copyright each (total of two) for the PeopleSoft and JDE product lines to cover databases of "knowledge management" solutions related to many of the documentary support materials downloaded by Defendants. Similar to the preceding category, Oracle seeks to add these two registrations simply to conform the complaint to our understanding of the voluminous and complex Data Warehouse and other evidence which has taken many months for both parties to review, produce, and analyze. Again, we do not think the Court will be interested in hearing and deciding an opposed motion on these conforming amendments.

4. Disputed amendments related to Database - In prior discussions, Defendants indicated a willingness "to discuss the possibility that they may not oppose an amendment on the database issue at a later time." (Cowan email, April 29, 2009). As you can see in the attached, Oracle is proposing to amend the first claim for relief to include seven additional registrations related to the database. We think this minor amendment makes far more sense, and the parties' interests are far better served, in the context of this case than in a new lawsuit. In connection with this proposed amendment, since we do not wish to unnecessarily burden the parties or the Court, please advise us if you believe TN had a license that permitted its possession and use of the Oracle database technology products which TN had on its systems. If the answer is no, then please indicate whether you will consent to the proposed amendment. In conjunction with these proposed database amendments, we also propose that the parties stipulate to the following accompanying discovery, which we can formalize in more detail if you will agree in principle (to be included within the limits already set by the Court in the June 11, 2009 order):

7 hours of 30(b)(6) testimony from TN on TN's copies and use of the database products

7 hours of 30(b)(6) testimony from SAP on SAP's knowledge of, discussions concerning, and approval or non-approval, of any effort by TN to acquire a license for Oracle's database products

Document productions from John Baugh, Greg Nelson, George Lester, Mark Hulett, Paul Bigos, Jennifer Mrak, Georg Schraeder, and Jochen Sholten related to TN's use of Oracle's database products

Production from up to 2 additional reserve TN or SAP custodians (combined)

Up to 12 additional reserve hours of testimony from TN or SAP witnesses (combined)

As with the PeopleSoft registrations, Oracle reserves all rights with respect to this issue, including the right to seek to add additional registrations and/or file a separate lawsuit, if Defendants oppose these amendments.

We look forward to your prompt response. Please direct any written comments to all addressees above.

Thanks,

Geoff